



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

Issued by the Department of Transportation on September 30, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-1999-4994

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **American Airlines, Inc.** filed **7/12/04** to:

XX Amend exemption under 49 U.S.C. §40109 granted in this docket on December 4, 2002, to:

Permit American Airlines to provide code-share service under its existing Japan authority with both Japan Airlines and JALways Co., Ltd., a subsidiary of Japan Airlines. ¹ **American states that JALways plans to begin service between Tokyo and Bangkok in its own name while continuing to wet lease aircraft to Japan Airlines for this service. American requires an amendment to its existing authority to provide code-share service on flights operated by JALways in its own name.**

Applicant rep: **Carl B. Nelson (202) 496-5647** DOT Analyst: **Gerald Caolo (202)-366-2406**

US Airways filed a response stating that it does not oppose American's request provided that the Department grants US Airways' pending application to delete a condition placed on its code share authority with Lufthansa. ² The carrier notes that its authority for intermediate and beyond code-share service with Lufthansa is limited while the authority granted to American in conjunction with the American-British Airways code-share authority is not limited.

American Airlines filed a reply stating its amendment is a technical and non-controversial change to its existing authority. It further states that US Airways has not opposed American's application and there is no linkage between US Airways' application involving code-share authority with Lufthansa, and American's application here.

DISPOSITION

XX **Granted** (subject to conditions, see below)

¹ American holds exemption authority and a statement of authorization to provide, in part, scheduled foreign air transportation of persons, property, and mail between United States and Japan, and any two points in Japan, limited to traffic originating or terminating outside Japan.

American operates this service under a code-share agreement with Japan Airlines. The authority is limited to code-share operations with Japan Airlines on flights operated by Japan Airlines, including flights operated with aircraft wet leased to Japan Airlines by its subsidiary JALways. (This carrier was known as Japan Air Charter Co., until a change in its corporate name) See Notices of Action Taken dated February 18, 1999, and December 4, 2002.

² US Airways is requesting that the Department eliminate the condition whereby it can only provide intermediate and beyond code-share service with Lufthansa to countries with which the United States has signed open-skies agreement and/or countries for which the carrier holds authority, and for which it holds route integration authority. See US Airways application filed May 25, 2004, Docket 2003-15946.

The above action was effective when taken: September 30, 2004, through December 4, 2004, coextensive with the authority granted American on December 4, 2002, in this Docket.

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX The authority granted is consistent with the aviation agreement between the United States and Japan.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificates of public convenience and necessity**

XX Standard exemption conditions (attached)

XX Statement of authorization approving the American/Japan Airlines code-share Operations, dated February 18, 1999, Docket OST-1999-4994, and conditions therein

Remarks: We have decided to grant American's request to amend its Japan code-share authority so that it may offer code-share service on flights operated by JALways. It is our policy to ensure that the operating rights available to U.S. carriers are fully utilized. We also note that American's request here is effectively a technical change and unrelated to US Airways' pending application to amend its code-share authority with Lufthansa. Under these circumstances, we find that the public interest supports grant of American's request to facilitate its code share service and also, to enhance service options to the traveling public. We are aware that US Airways is seeking action on its pending application and we are considering its application now.

We amend condition (4) of Notice of Action Taken, dated December 4, 2002, to read as follows:

The authority granted is limited to code-share operations on flights operated by Japan Airlines or by its subsidiary JALways Co., Ltd.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this order is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.